

Kevin J. Holl, State Bar No. 124830  
GORDON-CREED, KELLEY, HOLL &  
SUGERMAN LLP  
222 Kearny Street, Suite 650  
San Francisco, CA 94108  
Telephone: (415) 421-3100  
Facsimile: (415) 421-3150

*Attorneys for Plaintiff*  
*Merrill Lynch, Pierce, Fenner & Smith*  
*Incorporated*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MERRILL LYNCH, PIERCE, FENNER &  
SMITH INCORPORATED, a Delaware  
corporation,

Plaintiff,

vs.

WILLIAM E. FREDRICKSON,

Defendant.

CASE NO.:

~~PROPOSED~~ ORDER GRANTING  
MERRILL LYNCH'S APPLICATION FOR  
A TEMPORARY RESTRAINING ORDER  
AND EXPEDITED DISCOVERY ; DIRECTING  
DEFENDANT TO SHOW CAUSE WHY  
~~Date:~~ PRELIMINARY INJUNCTION SHOULD  
~~Time:~~ NOT ISSUE; SETTING BRIEFING  
~~Courtroom:~~ SCHEDULE AND HEARING

AND NOW, this 27<sup>th</sup> day of June, 2007, upon consideration of the Complaint and Motion of  
Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), and having determined that:

1. Under Rule 13804 of the National Association of Securities Dealers Code of  
Arbitration Procedure for Industry Disputes, Merrill Lynch has the express right to seek temporary  
and preliminary injunctive relief from a court of competent jurisdiction pending an arbitration  
hearing before a full panel of duly-appointed arbitrators;

2. Merrill Lynch has established a reasonable likelihood of success on the merits of its  
claims for injunctive relief;

Order

1           3.     Merrill Lynch will suffer irreparable harm and loss if Defendant is permitted to (a)  
2     misuse the property of Merrill Lynch for Defendant's own personal use and benefit, and that of  
3     Defendant's new employer, Royal Alliance Associates, Inc., and (b) solicit accounts and Merrill  
4     Lynch customers;

5           4.     Merrill Lynch has no adequate remedy at law;

6           5.     Greater injury will be inflicted upon Merrill Lynch by the denial of temporary  
7     injunctive relief than would be inflicted upon Defendant by the granting of such relief; and  
8

9           6.     An injunction serves the public interest in the protection of confidential and trade  
10    secret business and client property and enforcement of reasonable contractual obligations, firm  
11    policy and fiduciary duty.  
12

13           **IT IS HEREBY ORDERED AND DECREED THAT:**

14           1.     A Temporary Restraining Order issue immediately and that security in the  
15    amount of \$5000.00 be posted no later than the 29<sup>th</sup> day of June, 2007;

16           2.     Defendant, and anyone acting in concert or participation with him, specifically  
17    including his legal counsel and any agent, employee, officer or representative of Royal Alliance  
18    Associates, Inc. , are ordered to return to Merrill Lynch's California counsel any and all records,  
19    documents and/or other types of information pertaining to Merrill Lynch customers ("Customer  
20    Information"), whether in original, copied, handwritten, computerized (including computer  
21    software, disks, computer hard drive and/or any other type of computer or digital information  
22    storage device) or memorialized in any other form, within twenty-four (24) hours of notice to the  
23    Defendant or his counsel of the terms of this Order.  
24

25           3.     Any and all Customer Information within the possession, custody or control of  
26    Defendant that is contained in any computerized form, including on computer software, disks,  
27    computer hard drive, and/or any other type of computer or digital information storage device,  
28

1 returned pursuant to paragraph 2 above shall be permanently deleted by a Merrill Lynch  
2 representative. Such Customer Information shall be permanently deleted, if possible, without  
3 affecting any other information or software on the computer.

4  
5 4. Defendant William E. Fredrickson is enjoined and restrained, directly and  
6 indirectly, and whether alone or in concert with others, including any agent, representative,  
7 officer, or employee of Defendant's current employer, Royal Alliance Associates, Inc., until  
8 further Order of this Court, from:

9 a) using, disclosing, or transmitting for the purpose of solicitation the  
10 information physically taken or information which Mr. Fredrickson emailed to  
11 himself; and

12 b) soliciting any client of Merrill Lynch whom Defendant served or whose  
13 name became known to Defendant while in the employ of Merrill Lynch for the  
14 purpose of inviting, encouraging or requesting the transfer of any accounts or  
15 business patronage from Merrill Lynch (excluding Defendant's family and  
16 relatives, and any client that Defendant serviced as a registered representative prior  
17 to joining Merrill Lynch).

18 5. This Order shall remain in full force and effect until such time as this Court  
19 specifically orders otherwise.

20 6. Defendant shall show cause before this Court on the 2nd day of August  
21 2007 at 10 o'clock a.m., or as soon thereafter as counsel may be heard, why a Preliminary  
22 Injunction should not be ordered according to the terms and conditions set forth above. Defendant  
23 William Fredrickson shall file and serve an opposition no later than July 20, 2007. Plaintiff  
24 Merrill Lynch shall file and serve a reply to the opposition no later than July 27, 2007.

25  
26 ///


27 ///

28  
**Order**

1                   7.       Merrill Lynch is granted leave to take expedited deposition discovery prior  
2 to the Preliminary Injunction hearing referred to hereinabove.

3 IT IS SO ORDERED:  
4

5 Dated: June \_27 \_\_, 2007

  
Honorable Maxine M. Chesney  
Judge of the United States District Court

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

Order